

CONSTITUTIONAL AXIOLOGY OF A POST-COMMUNIST STATE. THE CASE OF POLAND

Post-communist countries created a good number of legislation preventing the social system from totalitarian past and on the other side to stimulate and perform modern democratic system. The present institutions are far from to be complete and political, legal or social aspects of present post-communist societies are still to be reformed. In this case, however, traditional democratic or representative values are the examples of a common background for all the trends. In this respect the constitution of Poland of 1997 declares the values which are typical for contemporary democracy with no radicalism as well as a kind of common ideas typical for most of contemporary political or legal doctrines. The constitution provides traditional parliamentary system with respect for presidential power as a balance for supra-parliamentary measures which also created negative features and insufficiency of Polish democracy in the past, especially in the Second Polish republic (1918-1926). On the other side, after 1989 the presidential system in Poland was never created as it was discussed as a danger for representativeness of contemporary democracy. This is the common trend of the country, contrary to political systems of most post-communist (especially post-Soviet) countries.

Apart from discussion between parliamentary and presidential political system, the presentation will show Polish constitutional values in Poland and will divide them in the groups of the formal and the declarative axiological character. The constitution forms such values as the rules of layic state (not widely discussed in post-communist countries), the common good of all its citizens, a democratic state ruled by law and implementing the principles of social justice, a unitary state with the question of autonomy, quite obvious idea of freedoms and rights of persons and citizens, equal access to the products of culture, national cultural heritage, the rule of legality (organs of public authority shall function on the basis of, and within the limits of, the law), dualism of international law, separation of and balance between the legislative, executive and judicial powers, creation and functioning of political parties, freedom for the creation and functioning of trade unions, socio-occupational organizations of farmers, societies, citizens' movements, other voluntary associations and foundations, prohibition of existence the political parties and other organizations whose programmes are based upon totalitarian methods and the modes of activity of nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the state policy, or provide for the secrecy of their own structure or membership, freedom of the press and other means of social communication, the decentralization of public power as the basis of the territorial system (self-government institution), corporative self-government institution of a profession in which the public repose confidence is required, the protection and care of marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, special care of veterans of the struggle for independence, particularly war invalids, a social market economy, protection of ownership and the right of succession, the family farm as the basis of the agricultural system, protection of work, equality and autonomy of churches and other religious organizations, neutrality of the armed forces regarding political matters and their subject to civil and democratic control. Not only such constitutional values provide social character of a post-communist state (which in comparison with other post-communist states in Poland is quite limited), but they also create some institutions independent

from governmental power and in this case it is important to discuss them in context of reforming post-communist system which is in fact not very far to be transformed after more than 25 years of collapse of communism.